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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Andrea Brooks, et al.,

10 Plaintiffs,

11 v.

12 Dhillon Brothers Incorporated, et al.,

13 Defendants.  
14

No. CV-23-08035-PCT-DWL

**ORDER**

15 The Court has an independent obligation to determine whether it has subject-matter  
16 jurisdiction. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). Pursuant to  
17 Rule 12(h)(3) of the Federal Rules of Civil Procedure, “[i]f the court determines at any  
18 time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

19 Diversity jurisdiction exists when there is complete diversity of citizenship between  
20 the plaintiffs and the defendants and the amount in controversy exceeds \$75,000, exclusive  
21 of interests and costs. 28 U.S.C. § 1332. A controversy meets this requirement when “all  
22 the persons on one side of it are citizens of different states from all the persons on the other  
23 side.” *Strawbridge v. Curtiss*, 7 U.S. 267 (1806).

24 The party seeking to invoke diversity jurisdiction has the burden of  
25 proof, *Lew v. Moss*, 797 F.2d 747, 749-50 (9th Cir. 1986), by a preponderance of the  
26 evidence. *McNatt v. Allied-Signal, Inc.*, 972 F.2d 1340 (9th Cir. 1992); *see* 13B Federal  
27 Practice § 3611 at 521 & n. 34. “Absent unusual circumstances, a party seeking to invoke  
28 diversity jurisdiction should be able to allege affirmatively the actual citizenship of the

1 relevant parties.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001).

2 Plaintiffs bring this action asserting diversity as the sole basis of the Court’s subject  
3 matter jurisdiction. (Doc. 1 ¶ 1.) Plaintiffs attempted to allege the citizenship of the parties  
4 by alleging that Plaintiffs are “residents” of Texas and Defendant Jagjiwan Singh (“Singh”) is a “resident” of California. (*Id.*) As to individual natural persons, an allegation about an  
5 individual’s residence does not establish his or her citizenship for purposes of establishing  
6 diversity jurisdiction. “It has long been settled that residence and citizenship [are] wholly  
7 different things within the meaning of the Constitution and the laws defining and regulating  
8 the jurisdiction of the . . . courts of the United States; and that a mere averment of residence  
9 in a particular state is not an averment of citizenship in that state for the purpose of  
10 jurisdiction.” *Steigleder v. McQuesten*, 198 U.S. 141, 143 (1905). “To be a citizen of a  
11 state, a natural person must first be a citizen of the United States. The natural person’s  
12 state citizenship is then determined by her state of domicile, not her state of residence. A  
13 person’s domicile is her *permanent* home, where she resides with the intention to remain  
14 or to which she intends to return.” *Kanter*, 265 F.3d at 858-59 (emphasis added) (citations  
15 omitted).

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17 Plaintiffs must amend the Complaint to allege the citizenship of the individual  
18 natural persons who are parties to this lawsuit.<sup>1</sup> *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d  
19 606, 612 (9th Cir. 2016) (“Courts may permit parties to amend defective allegations of  
20 jurisdiction at any stage in the proceedings.”).

21 To ensure that the requirements of subject-matter jurisdiction are met, the Court will  
22 require Singh to file a notice informing the Court of his state of domicile.

23 Accordingly,

24 **IT IS ORDERED** that Singh shall file a notice informing the Court of his state of  
25 domicile by **May 4, 2023**.

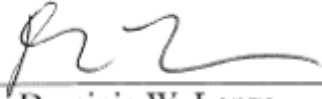
26 **IT IS FURTHER ORDERED** that Plaintiffs shall file an amended complaint

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28 <sup>1</sup> This amended complaint pursuant to court order will not affect Plaintiffs’ right under Rule 15(a)(1) to later amend once as a matter of course, if they choose to do so. *See, e.g., Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1006-09 (9th Cir. 2015).

1 properly stating a jurisdictional basis for this action no later than **May 11, 2023**.

2 **IT IS FURTHER ORDERED** that if Plaintiffs fail to timely file an amended  
3 complaint, the Clerk of the Court shall dismiss this case, without prejudice, for lack of  
4 subject matter jurisdiction.

5 Dated this 27th day of April, 2023.

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10 Dominic W. Lanza  
11 United States District Judge  
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